

**VIA OVERNIGHT DELIVERY****AUG 30 1995**

Christopher B. Amandes  
Vinson & Elkins  
2300 First City Tower  
1001 Fannin Street  
Houston, Texas 77002-6760

Re: Response to June 19, 1995 Letter and  
Request for Access

Dear Mr. Amandes:

The Environmental Protection Agency (EPA) is in receipt of your letter dated June 19, 1995, regarding the Crystal Chemical Company Superfund site in Houston, Texas. The purpose of this letter is both to respond to your June 19 letter and to request access for EPA and its authorized representatives to that portion of Mr. Theodore Levy's property which includes the Westpark Drive easement, 20 feet north of the north side of the easement, and construction work areas. EPA requires access to your client's property in order to effectuate the response action for the contaminated ground water at the Crystal Chemical site, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

EPA has reviewed your request on behalf of your client, Mr. Levy, for a reconsideration of EPA's position on a possible technical impracticability (TI) waiver for the ground water remedy at the site. Although it is unfortunate that your client is impacted by the activities associated with the response action at the Crystal Chemical site, EPA continues to believe that it may be appropriate to grant a TI waiver, as discussed further in EPA's May 30, 1995 letter. EPA currently is evaluating the *Assessment of the Technical Impracticability of Ground-Water Remediation*, submitted to EPA by Southern Pacific Transportation Company on August 4, 1995, and the request for the TI waiver. EPA's assessment of the validity of the request is expected by October 1995. The design of the extraction and treatment remedy for the portion of the area not included in the TI waiver evaluation is proceeding, and the remedial action will be implemented as planned and on schedule.

EPA does not plan to delay implementation of the remedial action in order to re-evaluate the remedial alternatives for the site ground water. EPA's decision on the ground water remedy for the site is documented in the 1990 Record of Decision, which also identifies contingency measures which would be appropriate if a TI waiver is

granted. As we have discussed on many occasions, the culmination of approximately thirteen years of investigations and studies in connection with the site compels EPA to implement a protective remedy now. Mr. Levy has not presented significant new information substantially supporting the need to re-examine the remedy described in the 1990 Record of Decision. Absent such information, it is simply not in the best interests of public health and the environment to postpone remedial implementation based on the possibility of new, possibly innovative, alternatives which may or may not be protective or practicable.

EPA intends, therefore, to implement one of the contingency measures identified in the 1990 Record of Decision if a TI waiver is granted. The contingency measures include waiver of the applicable or relevant and appropriate requirement (ARAR) of the maximum contaminant level of 50 parts per billion for arsenic, remedy enhancement, and hydraulic and/or physical containment of the contaminated ground water. These contingency measures have been evaluated in the *Assessment of the Technical Impracticability of Ground-Water Remediation*, and Southern Pacific has recommended waiver of the ARAR through a TI waiver and the construction of a slurry wall as the most protective measures. If the TI waiver is granted by EPA for the Crystal Chemical Company Superfund site, EPA will issue an Explanation of Significant Difference.

Regardless of whether a TI waiver is granted or the current remedy of extraction and treatment is implemented for the entire area covered by contaminated ground water, your client will be affected by the remedial action. Under the current design plan for the extraction and treatment remedy, installation of two or three extraction wells are planned on Mr. Levy's property. If the TI waiver is granted, in order to be effective in containing the contaminated ground water, a slurry wall must be constructed across Westpark Drive and onto Mr. Levy's property.

The slurry wall across the Westpark Drive easement also has been determined to be a necessary part of the current extraction and treatment remedy based on the results of the design investigations. The 15-foot sand zone should be hydraulically isolated from potentially releasing contaminated ground water into the flood control channel. Therefore, regardless of whether EPA grants the TI waiver, access to the Westpark Drive easement owned by your client is necessary now.

According to recent conversations with City of Houston representatives, a tentative schedule for construction of Westpark Drive has been set. If the slurry wall is to be constructed without seriously impacting the city's construction plans or without removing sections of the completed Westpark Drive, access to Mr. Levy's property at this time is necessary.

Section 104(e)(3)(D) of CERCLA provides authority for the agency "to enter at reasonable times ... [a]ny vessel, facility, establishment, or other place or property where entry is needed to determine the need for response or the appropriate response or to effectuate a response action under this subchapter." 42 U.S.C. § 9604(e)(3)(D). It is the Region's policy to request that all parties holding an interest in property affected by a

CERCLA investigation or response action voluntarily execute a standard consent to access form. In situations where EPA has issued an administrative order for performance of a response action, obtaining the owner's consent for access is normally handled by the private parties who are performing the action pursuant to the consent order. I understand that your client has denied access as requested by Southern Pacific Transportation Company, which is performing the remedy for the Crystal Chemical site pursuant to an administrative order.

This letter is to request that your client reconsider providing access, especially to those portions of his property to which access is immediately required. While complete performance of the ground water remedy ultimately will require access to additional portions of your client's property, EPA is requesting at this point only access to that portion of Mr. Levy's property which is part of the Westpark Drive easement, 20 feet north of the north side of the easement, and work areas approximately 50 feet west of the slurry wall to approximately 100 feet east of the west leg of the slurry wall and approximately 120 feet north of the northern Westpark Drive easement line on both east and west crossings on Westpark Drive. I have enclosed a letter including figures from Southern Pacific Transportation Company's consultant that describe and illustrate the areas. I have also enclosed a copy of the standard access form and request that it be executed by your client no later than Friday, September 8, 1995, and that a copy of the executed agreement be faxed to me by that date at (214) 665-6660. Please be informed that it is the Agency's policy that attempts to limit the nature and scope of consent to access or to place any conditions upon entry to property be treated as a denial of access. If I have not received an executed copy of the consent to access agreement by September 8, 1995, or if you attempt to place restrictions or conditions on EPA's or its designated representative's access to the subject property, EPA must consider the options available to gain access. These options may include administrative or judicial actions in order to obtain access for EPA and its designated representatives.

I hope this addresses your concerns and the concerns of your client. If you have any questions, please contact me at (214) 665-6744, or contact Anne Foster at (214) 665-2169.

Respectfully,

Lisa Marie Price  
Remedial Project Manager  
Superfund Texas Section (6SF-AT)

Enclosures

## CONSENT FOR ACCESS TO PROPERTY

Name: Mr. Theodore Levy

Description of Property: That portion of Mr. Levy's property which is part of the Westpark Drive easement, 20 feet north of the north side of the easement, and work areas approximately 50 feet west of the slurry wall to approximately 100 feet east of the west leg of the slurry wall and approximately 120 feet north of the northern Westpark Drive easement line on both east and west crossings on Westpark Drive.

I hereby consent to officers, employees, and authorized representatives of the United States Environmental Protection Agency (EPA) entering and having continued reasonable access to the above described property for the following purposes:

1. The taking of such samples from soil, water, air, and containers found at the property as determined necessary;
2. The construction of a slurry wall across the Westpark Drive easement and 20 feet north of the north side of the easement.
3. The use of a work area from approximately 50 feet west of the slurry wall to approximately 100 feet east of the west leg of the slurry wall and approximately 120 feet north of the northern Westpark Drive easement line on both east and west crossings on Westpark Drive.
4. Other actions necessary to respond to the potential threat to human health and the environment of ground water contamination at the property.

I realize that these actions are taken pursuant to EPA's response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. § 9601 et seq.

I am the property owner, or am an individual having the authority or the authorization of the property owner to make this access agreement.

This written permission is given by me voluntarily with full knowledge of my right to refuse and without threats or promises of any kind.

\_\_\_\_\_  
Theodore Levy

\_\_\_\_\_  
Date



009865

## Southern Pacific Lines

### Environmental Affairs Group

Southern Pacific Building One Market Plaza San Francisco, California 94105

C. F. Shepherd  
Director Environmental Projects

(415) 541-2545  
FAX (415) 541-1325

June 8, 1995

VIA FEDERAL EXPRESS (214) 665-6744  
Ms. Lisa Marie Price  
Remedial Project Manager  
U.S. Environmental Protection Agency  
1445 Ross Avenue  
Suite 1200  
Dallas, Texas 75202

**Re: Crystal Chemical CERCLA Site, Extension of Slurry Wall Across Westpark Drive**

Dear Ms. Price:

Per your request, this letter presents the construction details and access requirements for the installation of the slurry wall across West Park Drive. In addition, I have attached a copy of a letter from Holme Roberts and Owen which presents the efforts undertaken on behalf of Southern Pacific Transportation Co (SPTCo) in order to obtain access to the subject property.

It is SPTCo's understanding that the U.S. Environmental Protection Agency will assist in obtaining the required access agreements to extend the west and east legs of the slurry wall across Westpark Drive. As we have discussed, installation of this portion of the slurry wall will preclude future disruption of traffic on Westpark Drive and will reduce the overall installation costs.

### Construction Access Issues

The existing property line between the Crystal Chemical property and the Levy property is located in the middle of the 100-foot wide Westpark Drive easement. In order to prevent a future disruption of traffic on Westpark Drive, it will be necessary to extend the slurry wall approximately 20 feet north of the north side of the Westpark Drive easement, or a total of 70 feet onto the Levy property.

To construct the slurry wall to the temporary end point located on Levy property, a work area around the slurry wall will be required. This work area will extend from approximately 50 feet west of the slurry wall to approximately 100 feet east of the west leg of slurry wall.

Page Two  
June 8, 1995

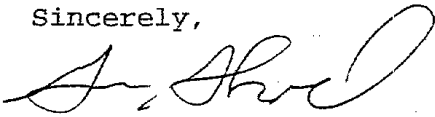
009866

The required construction area will also extend approximately 120 feet north of the northern Westpark Drive easement line (See Figure 1). These dimensions and work areas would be required for both the east and west crossings on Westpark Drive. Both crossings can be installed without interfering with the access to the property by the current tenant. In the event that access to the entire Levy property is not obtained concurrent with the access for the West Park Drive crossings the slurry wall will be terminated on the north side using a 3-foot diameter "stop" pipe. The pipe will be placed through the partially backfilled slurry wall trench and then the remaining backfill will be placed. When the remainder of the wall is constructed, the excavation will begin at the stop pipe and proceed north. After sufficient backfill has been placed in the trench to support the previously placed backfill, the "stop" pipe will be pulled, allowing the new backfill to flow against the previously placed backfill.

Figure 2 illustrating the "stop" pipe method is attached together with a copy of the slurry wall drawing showing the required work areas and the limits of the wall that needs to be constructed to prevent a future disruption of traffic on Westpark Drive.

Please contact Aniko Molnar or myself with any requests for additional information regarding this subject.

Sincerely,



Greg Shepherd  
Director of Environmental Projects

cc: P. Amanda  
A. Molnar  
J. Bins IC Denver  
M. Lepore HRO Denver



L98600

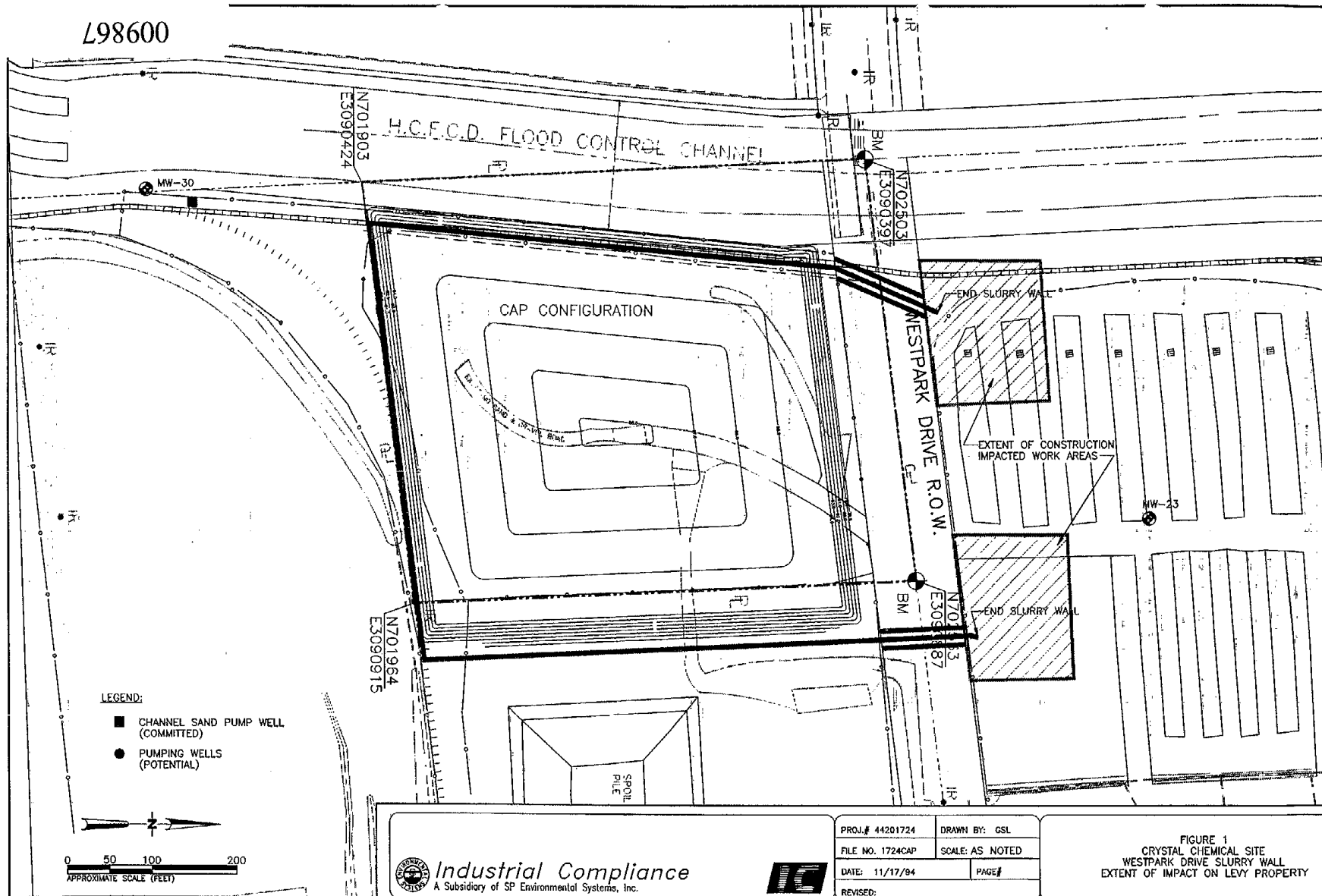
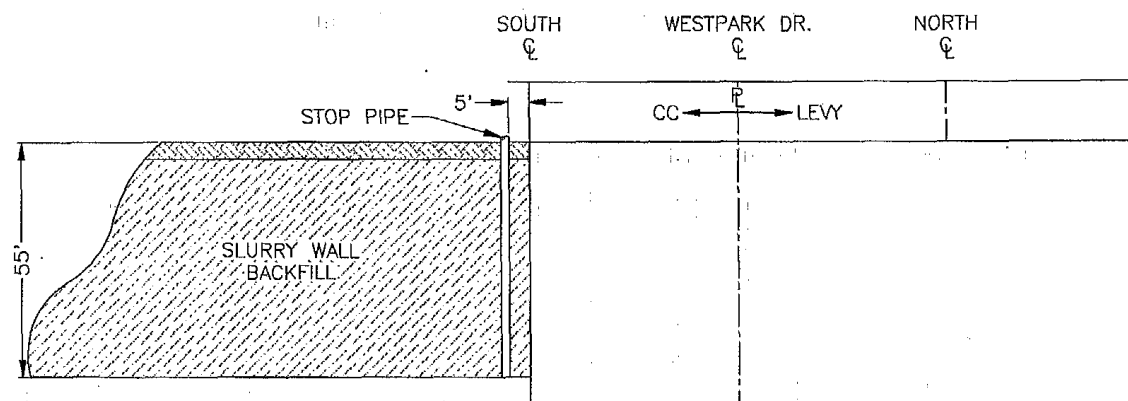


FIGURE 1  
CRYSTAL CHEMICAL SITE  
WESTPARK DRIVE SLURRY WALL  
EXTENT OF IMPACT ON LEVY PROPERTY

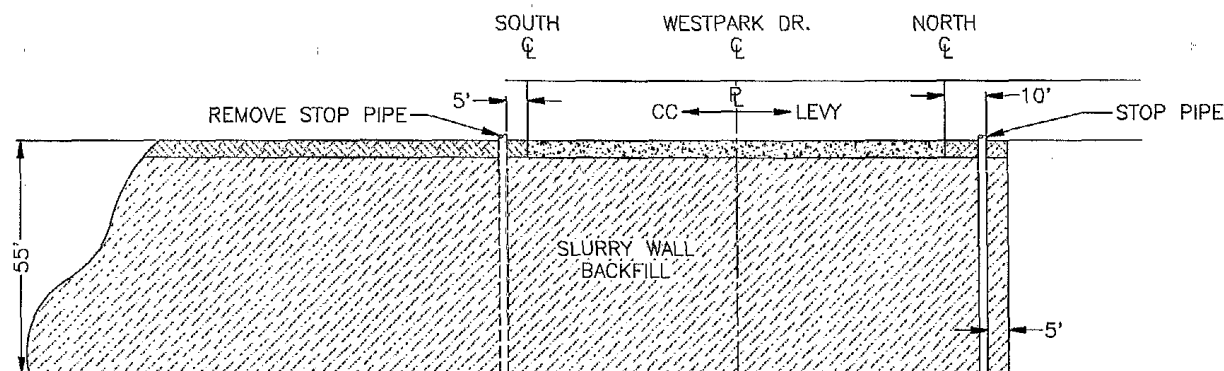
898600



(VIEW LOOKING WEST)

- 1) INITIAL WALL TERMINATION AT SOUTH SIDE OF WESTPARK DRIVE
- 2) AFTER ACCESS ONTO LEVY PROPERTY IS ATTAINED

EXCAVATE WALL ONTO LEVY PROPERTY  
PLACE BACKFILL AND PULL STOP PIPE  
PLACE PIPE AT NORTH END OF TRENCH



(VIEW LOOKING WEST)

0 20 40 80  
APPROXIMATE SCALE (FEET)

|                 |               |
|-----------------|---------------|
| PROJ.# 44201724 | PAGE#         |
| SCALE: AS SHOWN | DRAWN BY: GSL |
| FILE NO. SWTP   |               |
| DATE: 6/2/95    |               |

FIGURE 2  
SLURRY WALL TERMINATION PROCEDURES  
CRYSTAL CHEMICAL



**Industrial Compliance**  
A Subsidiary of SP Environmental Systems, Inc.

